

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JEANNETTE SANTIAGO and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Philadelphia, PA

*Docket No. 02-1884; Submitted on the Record;
Issued February 19, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant is entitled to more than a five percent impairment of the right upper extremity and a five percent impairment of the left upper extremity for which she received a schedule award.

On November 29, 1999 appellant sustained injuries while in the performance of duty as an accounts receivable analyst for the employing establishment. Her claims were accepted for bilateral carpal tunnel syndrome and release. The Office of Workers' Compensation Programs accepted a recurrence of her condition on January 6, 2000. Appellant was paid appropriate compensation benefits.

Appellant filed a claim for a schedule award. By decision dated August 22, 2001, the Office awarded her a five percent impairment for the right arm and a five percent impairment for the left arm. Appellant, through counsel, requested an oral hearing. By decision dated April 8, 2002, the hearing representative affirmed the Office's August 22, 2001 decision.

The Board finds that appellant has no greater than a five percent impairment of each upper extremity.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the*

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

Evaluation of Permanent Impairment has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.³

As of February 1, 2001, schedule awards must be based on the fifth edition of the A.M.A., *Guides*.⁴ Appellant had submitted a March 3, 2001 report from Dr. David Weiss, an osteopath, but his statements as to the degree of permanent impairment were based on the fourth edition of the A.M.A., *Guides*. Dr. Weiss determined that appellant had a 20 percent impairment of the right arm based on right grip strength deficit and 20 percent impairment of the left arm, also based on left grip deficit. The Office referred appellant to the Office medical adviser who determined that appellant had no more than a five percent impairment for each upper extremity.

The Board notes that in cases of compression neuropathy such as carpal tunnel syndrome, the fifth edition of the A.M.A., *Guides* does not provide for additional values for decreased grip strength. Since Dr. Weiss relied exclusively on grip strength to determine appellant's impairments, his recommended rating is of no probative value.⁵ It is further noted that A.M.A., *Guides* states that for "patients with residual symptoms following surgery "a rating not to exceed five percent can be used."⁶

The Board finds that the medical adviser provided a reasoned opinion as to the degree of permanent impairment under the fifth edition of the A.M.A., *Guides*. The record does not contain any other probative medical evidence with respect to permanent impairment under the fifth edition and, therefore, the Board finds the weight of the medical evidence does not establish more than a five percent impairment to each arm.

³ *Id.*

⁴ FECA Bulletin No. 01-05 (January 29, 2001).

⁵ A.M.A., *Guides* at 481 (5th ed. 2001). Section 16.5d provides that in rating compression neuropathies, additional impairment values are not given for decreased grip strength.

⁶ *Id.* at 495.

The decisions of the Office of Workers' Compensation Programs dated April 8, 2002 and August 22, 2001 are affirmed.

Dated, Washington, DC
February 19, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member